IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

MACA.No. 1053 of 2005(C)

OPMV.588/1998 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA
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APPELLANT/APLICANTS.
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1. **ANNIE. W/O.JOHN, AGED 45 YEARS,**
   PULPARAMBIL HOUSE, VALAVAYAL POST,
   SULTHAN BATHERY TALUK.

2. **LISSY, D/O.JOHN, AGED 29 YEARS,**
   DO. DO.

3. **BAIJU, S/O.JOHN, AGED 25 YEARS,**
   DO. DO.

4. **SHIJU, S/O.JOHN, AGED 23 YEARS, DO. DO.**

5. **SHIBU, S/O.JOHN, DO. DO.**

6. **SHINU, S/O.JOHN, AGED 19 YEARS,**
   DO. DO.

BY ADV. SRI.GRASHIOUS KURIAKOSE

RESPONDENTS: RESPONDENT NO.3.

NATIONAL INSURANCE CO.LTD.,
BRANCH OFFICE, PANDIKKAD ROAD, MANJERI.

BY ADV. SRI.E.M.JOSEPH

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 19/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

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M.A.C.A. NO. 1053 OF 2005

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Dated this the 19th day of January, 2007.

J U D G M E N T

Krishnan,J.

This is an appeal preferred against the award of the Motor Accidents Claims Tribunal, Kalpetta in O.P.(MV) 588/98. The claimants are the widow and five children of the deceased who died in a road accident. The Tribunal fixed the income at Rs.2,000/- and awarded a total compensation of Rs.2,58,000/-. It is against that decision the present appeal is preferred. The learned counsel for the Insurance Company has also entered appearance.

2. Heard both sides. The learned counsel for the appellant would submit the deceased was a mason by profession and he was getting an income of Rs.4,500/-. In spite of examining his co-worker, the Tribunal only fixed it at Rs.2,000/- and calculated the compensation. The accident had taken place in 1998 and taking into consideration the wage structure prevalent at that time we are inclined to fix the income at Rs.2,500/-. When it

is so after deducting 1/3rd the annual dependency loss would be Rs.20,000/- and by applying a multiplier of 15 it will be Rs.3,00,000/-. The Tribunal has awarded Rs.2,40,000/-. So, the claimant will be entitled to an additional compensation of Rs.60,000/-. The deceased has left behind her widow and five children of whom three are minors. No amount is seen given towards loss of love and affection. So, we award another Rs.15,000/- under that head. On all other heads the claimant was properly compensated by the Tribunal.

In the result, the M.A.C.A. is partly allowed and the claimants are awarded an additional compensation of Rs.75,000/- with 7% interest on the said sum from the date of petition till realisation and the Insurance Company is directed to deposit the same within a period of two months from the date of receipt of a copy of this judgment.

K.S. RADHAKRISHNAN, JUDGE.

M.N. KRISHNAN, JUDGE.

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